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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NOBUYOSHI MORIMOTO

Appeal 2009-006363
Application 09/588,879
Technology Center 2400

Before JOHN A. JEFFERY, ST. JOHN COURTENAY III, and CAROLYN D. THOMAS, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-20, 23-30, and 32-37. Claims 21, 22, and 31 have been canceled. *See* App. Br. 4. We have jurisdiction under 35 U.S.C. § 6(b). We affirm-in-part.

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellant invented a method, system, and medium for identifying individual users accessing a web site. *See generally* Spec. 4. Claim 1 is illustrative:

> 1. A method for identifying distinct users accessing a web site, the method comprising:
>
> storing one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a different computer accessing said web site;
>
> receiving a first request from a first computer to access the web site;
>
> sending a request for information to said first computer, wherein said information comprises a first Internet address and a first time value corresponding to said first computer;
>
> receiving said information;
>
> determining whether a matching record for said first Internet address and said first time value exists in said database; and
>
> identifying said first computer as a distinct user if said matching record does not exist in said database.

The Examiner relies on the following as evidence of unpatentability:

Gerace	US 5,991,735	Nov. 23, 1999
Bodnar	US 6,295,541 B1	Sept. 25, 2001 (filed Aug. 18, 1998)

Farrow	US 6,374,295 B2	Apr. 16, 2002 (filed Oct. 29, 1998)
Shapira	US 6,925,442 B1	Aug. 2, 2005 (filed Jan. 29, 1999)

THE REJECTIONS

1. The Examiner rejected claims 16, 18-20, 24, 26, 28-30, 33, 34, 36, and 37 under 35 U.S.C. § 103(a) as unpatentable over Shapira and Official Notice. Ans. 3-5.[2]

2. The Examiner rejected claims 1-3, 5, 7-9, 11, 12, 14, and 15 under 35 U.S.C. § 103(a) as unpatentable over Shapira, Official Notice, and Gerace. Ans. 5-8.

3. The Examiner rejected claims 4, 10, and 13 under 35 U.S.C. § 103(a) as unpatentable over Shapira, Official Notice, Gerace, and Bodnar. Ans. 8-9.

4. The Examiner rejected claims 17, 23, 27, 32, and 35 under 35 U.S.C. § 103(a) as unpatentable over Shapira, Official Notice, and Bodnar. Ans. 9-10.

5. The Examiner rejected claim 6 under 35 U.S.C. § 103(a) as unpatentable over Shapira, Official Notice, Gerace, and Farrow. Ans. 10.

6. The Examiner rejected claim 25 under 35 U.S.C. § 103(a) as unpatentable over Shapira, Official Notice, and Farrow. Ans. 10.

[2] Throughout this opinion, we refer to (1) the Appeal Brief filed April 28, 2008; (2) the Examiner's Answer mailed July 11, 2008; and (3) the Reply Brief filed September 11, 2008.

CLAIM GROUPING

Appellant argues the following claim groupings separately: (1) claims 20, 24, 26, 28, and 29; (2) claims 30, 33, 34, 36, and 37; (3) claims 23 and 27; (4) claims 32 and 35; and (5) claim 25. *See* App. Br. 19-23, 35, 36. Accordingly, we select claims 20, 30, 23, and 32 as representative of groups (1)-(4), respectively. *See* 37 C.F.R. § 41.37(c)(1)(vii). The remaining claims are discussed separately.

THE OBVIOUSNESS REJECTION OVER SHAPIRA AND OFFICIAL NOTICE

Claims 16, 18, and 19

Regarding independent claim 16, the Examiner finds that Shapira teaches all recited limitations, except for associating the recited time with a launching a web browser on the client computer. Ans. 3-4. To teach this missing limitation, the Examiner relies on a purportedly well-known concept that browser applications include a home page request when the browser is first launched, and takes Official Notice of this concept. Ans. 4-5. Among other arguments, Appellant asserts that Shapira does not teach using a time value included in the request to identify a fist identifier as a distinct user. App. Br. 17. The issue before us, then, is as follows:

ISSUE

Under § 103, has the Examiner erred in rejecting claim 16 by finding that Shapira would have taught or suggested a web site server operable to identify a first identifier as a distinct computer user if a search for the first

identifier did not result in a match, the match including matching the first Internet address to an Internet address in a stored identifier and matching the first time value to a time value in a stored identifier?

FINDINGS OF FACT

1. Appellant has not specifically defined "a distinct user" or "request." *See generally* Specification.

2. Shapira teaches a communication system 9 between a remote visitor 12, a first web site/server 10 (e.g., www.example.com), and a second web site/server 8 (e.g., www.portal.com). The first web site/server 10 has a log file 15 or database 16 for storing traffic data hits. Shapira, col. 3, ll. 30-32, col. 5, ll. 4-19; Fig. 1.

3. Each request by a remote visitor 12 to a server and reply comprises a "hit" of raw traffic data 11. While the "hit" is stored in the format shown in Figure 2, the raw traffic data hit 11 is not in the Figure 2 format. The stored information is determined from the data exchanged between the server 10 and the source of the traffic data hit 11. Shapira, col. 3, ll. 26-30; col. 4, ll. 18-26; Figs. 1-2.

4. The format of the stored "hit" includes various fields: (1) a visitor address field 30, which is the Internet Protocol (IP) address or domain name of the visitor accessing a site, and (2) a Date/Time field 33, which is the date/time of access offset from Greenwich Mean Time (GMT). Shapira, col. 4, ll. 27-49; col. 5, l. 45; Fig. 2.

5. Shapira teaches a visitor 12 requests a web page from a second web server 8 (i.e., a "GET" command) and generates a reply back to visitor (i.e., "OK" message and the requested web page). On the web page, the

remote visitor may click on an advertisement available on a second web server 10. This generates a second request for a web page via a second traffic data hit 11a shown in Figure 3 (i.e., visitor.sample.org—[12/JAN/1996:20:37:55+0000 or Jan. 12, 1996, at 8:37:55 PM, GMT] "GET/portal?ad.htm HTTP/1.0" 200 215 "http://www.portal.com/sompage.htm"). The first web serer 10 also stores an entry containing the visitor's Internet address (i.e., visitor.sample.org), the time and data of the request (i.e., 12/Jan/1996:20:37:55+0000 or), the request (i.e., "GET/portal?ad.ht HTTP/1.0), and the Universal Resource Locator (URL) (i.e., http://www.portal.com/somepage.htm). Shapira, col. 5, ll. 4-50; Figs 2-3.

6. Shapira teaches analyzing a hit to determine the visitor's address (e.g., at 500) by scanning the visitor session database (e.g., at step 505). At 510, Shapira checks to see if the visitor address exists in the database. If the address is new to the database ("NO" between 510 and 515), a new entry to the visitor session database is created at step 515. If the address exists ("YES" between 510 and 520), the time of the current hit is determined at step 520. At step 525, the program checks how long it has been since the visitor's last activity (i.e., last hit from the visitor was received). If the length is longer than the predetermined session time ("YES" between 525 and 515), a new visitor record is created at step 515. Otherwise ("NO" between 525 and 530), the last activity time is updated in the session database at step 530. Each visitor session corresponds to a single visitor. Shapira, col. 7, l. 37 – col. 8, l. 17; Fig. 8.

ANALYSIS

Based on the record before us, we find error in the Examiner's obviousness rejection of claim 16 which calls for, in pertinent part, a web site server operable to "identify said first identifier as a distinct computer user if said searching for said first identifier did not result in a match, wherein a match comprises a match between the first Internet address, and the Internet address in one of the said one or more stored identifiers and a match between the first value and the time value in the one of said one or more stored identifiers." Since Appellant has not specifically defined "a distinct user" (FF 1), we find that the broadest, but reasonable construction of this phrase in light of the disclosure includes a user that creates a new visitor session. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (internal citations omitted). Moreover, Appellant has not defined "a request" (FF 1), and we find that a request can include multiple commands that are the raw traffic data.

Shapira teaches a server that stores data "hit" information including both an Internet address (e.g., visitor address) and a time value (e.g., time) in a server's database. *See* FF 2-4. Additionally, Shapira teaches that a "hit" can be a request (FF 3), and provides an example of one traffic data hit 11a that includes both an Internet address (e.g., visitor.sample.org) and a time value associated with access a site (20:37:55+0000 in 12/JAN/1996:20:37:55+0000) (FF 5). Thus, Shapira teaches a request to access a web site can include an Internet address and a time value as recited in claim 16.

Nonetheless, Shapira falls short of disclosing a server operable to identify a distinct user if the searching does not result in a match as required by claim 16. Shapira teaches comparing the visitor's address with a database to search for a match (e.g., at step 510). FF 6. However, if the comparison does not result in a match (e.g., "NO" between 510 and 515), the first identifier is identified as a distinct user (e.g., new visitor session created). Shapira does not also comparing the time value in this scenario. *See id.* While Shapira does compare the time with a predetermined time when the visitor address does result in a match (i.e., at step 525), this is a different scenario where the first identifier *did result in a match*. Shapira therefore fails to teach a web site server operable to "identify said first identifier as a distinct computer user if said searching for said first identifier did not result in a match, wherein a match comprises a match between the first Internet address, and the Internet address in one of the said one or more stored identifiers *and* a match between the first value and the time value in the one of said one or more stored identifiers" (emphasis added) as required by claim 16.

For the foregoing reasons, we are persuaded that the Examiner erred in rejecting (1) independent claim 16; (2) independent claim 19, which recites commensurate limitations; and (3) claims dependent thereon for similar reasons. Since this issue is dispositive of our reversal of the Examiner's rejection, we need not address Appellant's other arguments (App. Br. 15-19).

Claims 20, 24, 26, 28, and 29

Representative independent claim 20 differs in scope from independent claim 16 and recites comparing a time value and Internet address with a database and the time value information in the database is associated with a time at which a user's computer was synchronized with a global time standard. The Examiner finds that Shapira teaches all these limitations. *See* Ans. 3-5. Appellant argues that Shapira does not teach: (1) a request having a time value; (2) a time value is associated with a time the computer was synchronized with a global standard but rather the time a hit was received by a server; and (3) determining distinct user instead of the same visitor. App. Br. 19-20.

The issues before us, then, are as follows:

ISSUES

Under § 103, has the Examiner erred in rejecting claim 20 by finding that Shapira would have taught or suggested:

(1) a request comprising a time value corresponding to the first computer user accessing a web site, the time value reflects a time at which the first computer was synchronized with a global time standard;

(2) the time value information in a database is associated with a time at which a computer used by a computer user to access the web site was synchronized with a globe time standard; and

(3) determining whether a matching record for the first Internet address and the first time value exists in the database and identifying the first computer as a distinct user if the matching record does not exist in the database?

ANALYSIS

As stated above, Appellant has not defined a "request" (FF 1) and thus a request can include a multiple commands, giving this term its broadest reasonable construction. Additionally, as discussed, Shapira teaches that hit can be a request (FF 3), and provides an example of one hit (e.g., 11a) that includes a time value associated with accessing a site (20:37:55+0000 in 12/JAN/1996:20:37:55+0000) (FF 5). Thus, contrary Appellant's assertions (App. Br. 19), Shapira teaches a request that includes a time value.

Moreover, each hit is stored in a database with a time value with a global time standard (e.g., GMT) offset. *See* FF 4. While this time value is the time a web site was accessed, the computer must have been synchronized to GMT (i.e., a global time standard) to obtain an offset in this time value. Furthermore, claim 20 only requires that this time value *reflects* a time or *is associated* with a time a computer was synchronized with a global standard. By including a GMT offset, Shapira's time value is associated with a computer's synchronization to a global time standard. We therefore disagree with Appellant (App. Br. 19) that Shapira does not teach a time value information in a request or a database that reflects or is associated with a time which a computer was synchronized with a global time standard.

Lastly, claim 20 does not recite identifying a match using the time value, but only requires comparing a time value and Internet address with a database. As stated above, Shapira teaches comparing the visitor's address with a database (i.e., at step 510). FF 6. Additionally, Shapira teaches comparing a time value (e.g., 20:37:55+0000) at step 520. *See id.* If the length of activity since the last hit has exceeds a predetermined session time (e.g., YES between 525 and 515), a new visitor session is created. As

explained above, a "distinct user" has not been defined and can include the same user in a new visitor session. Thus, by creating a new visitor session, Shapira determines whether the first computer is a distinct user as recited in claim 20. Moreover, contrary to Appellant's assertions (App. Br. 19-20), Shapira teaches each visitor session relates to a single visitor (*see* FF 6), but not that all the visitor sessions in the database are from the same visitor or user.

For the foregoing reasons, Appellant has not shown error in the obviousness rejection of: (1) independent claim 20; (2) independent claims 26 and 29 having commensurate limitations; and (3) dependent claims 24 and 28 for similar reasons.

Claims 30, 33, 34, 36, and 37

Representative independent claim 30 differs in scope from independent claims 16 and 20. Claim 30 recites (1) associating the time value is with a launch of a web browser on a computer operated by the computer user, and (2) determining whether the computer user is counted as a web hit by comparing a time value and an Internet address. The Examiner finds that Shapira teaches all these limitations, except for the time value being associated with a launch of a web browser. *See* Ans. 3-5. The Examiner takes Official Notice that requesting a home web page when a launching a web browser is well-known to an ordinary artisan and, as such, the time value for a hit to the home web page is a time value associated with a browser launch on a user's computer. *See* Ans. 4, 5, 12. Appellant argues that: (1) Shapira's request does not include a time value associated with a browser launch but rather a time value determined by the server after hit; (2)

the Examiner provides no evidence that when a browser (e.g., Explorer or Netscape) accesses a home page after being launched that the time associated with the launch of the browser is part of the request; and (3) Shapira does not teach using the time of the hit to identify a distinct user. App. Br. 20-23.

The issues before us, then, are as follows:

ISSUES

Under § 103, has the Examiner erred in rejecting claim 30 by finding that Shapira and the taking of Official Notice collectively would have taught or suggested:

(1) the request's time value is associated with the launch of a web browser on computer, and

(2) determining whether the computer is counted as a web hit by comparing the time value with a database time value?

ADDITIONAL FINDINGS OF FACT

7. Many web browsers include a feature within its menus to select a home web page that opens when the browser is launched by its user.

8. Appellant does not define a "web hit." *See generally* Specification.

ANALYSIS

Based on the record before us, we find no error in the Examiner's obviousness rejection of claim 30. As explained above, Shapira's "hit" or request includes a time value related to the time of accessing a website. *See*

FF 3, 5. Thus, while the server exchanges this information, Shapira states the time stored is the time the web site is accessed. *See* FF 4. Furthermore, we agree with the Examiner and take judicial notice that web browsers typically include an optional feature enabling users to select a desired home page that opens when the browser is launched by its user.[3] FF 7. Armed with this well-known teaching, an ordinarily skilled artisan would have recognized, when combined with Shapira's discussion, that a request for access to a web site will also result when launching a web browser on a computer. *See* FF 3, 7. Such a request would also include a time value corresponding to the time access, and would also be at least *associated* with the web browser's launch on a computer (e.g., access time is associated with the launch) as recited in claim 30. Moreover, while the first launch of browser may not include stored time values (App. Br. 18), previous time values can be stored in Shapira's database from previous browser launches even when a browser is launched again.

Appellant challenges the Examiner's taking of Official Notice. Specifically, Appellant argues that the Examiner has not provided evidence to show that a browser accesses a home page after being launched with the request having a time valued associated with the launch. App. Br. 22. However, the Examiner has only taken notice that requesting a home web

[3] *See In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970) (explaining that "the Patent Office appellate tribunals, where it is found necessary, may take notice of facts beyond the record which, while not generally notorious, are capable of such instant and unquestionable demonstration to defy dispute.")

page when launching a web browser is well-known. Ans. 4-5. Shapira teaches that a request for a web site includes a time value that a web page is accessed. Ans. 3-5; *see* FF 3, 5. The Examiner has therefore provided evidence that the request has a time value associated with the time the web site is accessed. Accounting for inferences and creative steps an ordinary artisan would have employed, the request's time value is also associated with the browser's launch as recited in claim 30 when Shapira launches a browser that includes a request for a home page.

Additionally, Appellant's argument about a distinct user (App. Br. 22) is not commensurate in scope with claim 30. Claim 30 recites determining whether the computer user is *counted as a web hit*—not whether the user is distinct. Furthermore, a "web hit" is not defined by the Specification. FF 8. Shapira thus teaches comparing the time value with stored time value information from previous web site accesses to determine whether the computer user is counted as a web hit (e.g., counted as a new session at 515). *See* FF 6. Shapira therefore teaches determining whether a computer user is counted as a web hit by comparing the time value with a database of previous stored values as recited in claim 30.

For the foregoing reasons, Appellant has not shown error in the obviousness rejection of: (1) independent claim 30; (2) independent claims 34 and 37 having commensurate limitations; and (3) dependent claims 33 and 36 for similar reasons.

THE OBVIOUSNESS REJECTION OVER SHAPIRA, OFFICIAL NOTICE, AND GERACE

Claims 1-3, 5, 7-9, 11, and 15

Independent claims 1, 9, and 15 recite limitations commensurate with independent claim 16. We are therefore persuaded that the Examiner erred in rejecting these claims for the reasons indicated previously regarding claim 16. Nor has the Examiner shown that Gerace cures this deficiency. We are therefore persuaded that the Examiner erred in rejecting: (1) independent claims 1, 9, and 15 and (2) dependent claims 2, 3, 5, 7, 8, and 11 for similar reasons.

Claims 12 and 14

Independent claim 12 recites a client computer system operable to execute a program to synchronize time. The Examiner refers to the discussion of claim 1, and fails to specifically address this limitation. *See* Ans. 5-8, 22. Among other arguments, Appellant contends that the Examiner has not addressed this limitation. App. Br. 28-29.

The issue before us, then, is as follows:

ISSUE

Under § 103, has the Examiner erred in rejecting claim 12 by finding that Shapira, Official Notice, and Gerace collectively would have taught or suggested a client computer system operable to execute a program to synchronize time?

ANALYSIS

Based on the record before us, we find error in the Examiner's obviousness rejection of claim 12. We agree with Appellant that the Examiner has not addressed the limitation of the client computer system operable to execute a program to synchronize time as recited in claim 12. Moreover, while Shapira's "hit" or request includes a time value related to synchronizing with a global time standard as previously stated (*see* FF 3-5), Shapira also teaches that the server stores information related to requests and replies in its database. *See* FF 3. This information is determined from a data exchanged between a server and traffic hit sources. *See id.* Therefore, Shapira, at best, suggests that a server—not a client computer system—would execute a program to synchronize time. Gerace was not relied upon to teach this limitation (*see* Ans. 6-7), and does not cure this deficiency.

The Examiner has therefore failed to establish obviousness for claim 12. We are therefore persuaded that the Examiner erred in rejecting independent claim 12, and dependent claim 14 for similar reasons. Since this issue is dispositive of our reversal of the Examiner's rejection, we need not address Appellant's other arguments (Br. 28-29).

THE OBVIOUSNESS REJECTION OVER SHAPIRA, OFFICIAL NOTICE, GERACE, AND BODNAR

Dependent claims 4, 10, and 13 depend from independent claims 1, 9, and 12 respectively and will not be sustained for similar reasons. Nor has the Examiner shown that Gerace or Bodnar cures the above-noted deficiencies. Accordingly, we reverse the Examiner's rejection of claims 4, 10, and 13.

THE OBVIOUSNESS REJECTION OVER SHAPIRA, OFFICIAL NOTICE, AND BODNAR

Claim 17

Dependent claim 17 depends from independent claim 16 and will not be sustained for similar reasons. Nor has the Examiner shown that Bodnar cures the above-noted deficiencies. Accordingly, we reverse the Examiner's rejection of claim 17.

Claims 23, 27, 32, and 35

Claim 23 recites the time value is generated by a time keeping device and the time value is synchronized with the global time keeping standard clock by the time keeping device. The Examiner states that Shapira teaches time values are generated by a time keeping device, but the time keeping device is not configured to synchronize the time value with a global time keeping clock. Ans. 9. The Examiner, however, cites Bodnar to teach a time keeping device configured for such synchronization. *Id.* Appellant refers to the argument made for claims 20 and 17, which contends Bodnar synchronizes datasets by comparing events without converting to common time and thus does not teach synchronizing a time value to a time-keeping device with a global time-keeping clock. App. Br. 32. Appellant also asserts that Shapira is impervious to clock drift, and thus would have no need to combine with Bodnar. App. Br. 32-33.

The issue before us, then, is as follows:

ISSUE

Under § 103, has the Examiner erred in rejecting claim 23 by finding that Shapira, Official Notice, and Bodnar collectively would have taught or suggested that the time value is (1) generated by a time-keeping device, and (2) synchronized with the global time-keeping standard clock by the time-keeping device?

ADDITIONAL FINDINGS OF FACT

9. Bodnar teaches that devices are synchronized so that time comparisons to past events can be made. Bodnar discloses that devices are synchronized to the same value or a constant offset (e.g., for devices in different time zones), and correspond to a common time, such as GMT, so that comparisons can be made. Bodnar, col. 9, ll. 19-47.

10. Bodnar teaches clocks can be located on servers and computers. Bodnar also provides an example of synchronizing datasets. Bodnar, col. 9, ll. 21-23, 47-49.

ANALYSIS

Based on the record before us, we find no error in the Examiner's rejection of claim 23. Shapira teaches data is collected from a request, including the access time to a web site. *See* FF 3-5. This time value, as discussed above, is a standard time (e.g., 20:37:55) and includes a GMT offset (e.g., +0000). *See* FF 4-5. Thus, Shapira teaches that the time value is generated by some time-keeping mechanism, and the time value is

synchronized with a global time-keeping standard. However, as the Examiner indicates, Shapira fails to describe explicitly that a time-keeping device synchronizes the time value with the global time-keeping standard clock.

Bodnar teaches using a time keeping device (e.g., on a server or computer (FF 10)) to synchronize time values of different devices so that comparisons between the time values can then be made. *See* FF 9. Thus, Bodnar relates more generally to synchronizing various devices, and not just related to the dataset example. *See id.* Moreover, Bodnar teaches that the synchronization can be achieved with an offset (*see id*), such as Shapira's GMT offset (FF 4-5). Similarly, Shapira compares a first computer's time value to stored time values. *See* FF 6. Combining Bodnar's teaching with Shapira thus merely yields a predictable result of using a time-keeping device to synchronize the time value in Shapira to a global time keeping standard so that Shapira's comparison can be made. We therefore find that combining Bodnar with Shapira does no more than improve Shapira in similar manner by including an actual time-keeping device to synchronize time values with a global time keeping standard clock (e.g., GMT). *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007).

Claims 27, 32, and 35 are commensurate in scope, but depend from different independent claims. Claim 27 depends from claim 26; claim 32 depends from claim 30; claim 35 depends from claim 34. We therefore sustain claims 27, 32, and 35 for similar reasons regarding claims 23, 26, 30, and 34.

THE OBVIOUSNESS REJECTION OVER SHAPIRA, OFFICIAL NOTICE, GERACE, AND FARROW

Dependent claim 6 depends from independent claim 1 and will not be sustained for similar reasons. Nor has the Examiner shown that Farrow cures the above-noted deficiencies. Accordingly, we reverse the Examiner's rejection of claim 6.

THE OBVIOUSNESS REJECTION OVER SHAPIRA, OFFICIAL NOTICE, AND FARROW

Claim 25 depends from claim 20 and additionally recites that database is an object oriented database or a relational database. The Examiner cites Farrow as teaching this missing limitation. Ans. 10. Appellant asserts that Farrow's teaching of logging changes in a separate area does not relate to Shapira, and there is no reason to combine Farrow with Shapira. App. Br. 35-36. The issue before us, then, is as follows:

ISSUE

Under § 103, has the Examiner erred in rejecting claim 25 by finding that Shapira, Official Notice, and Farrow collectively would have taught or suggested the database is a relational database?

ADDITIONAL FINDINGS OF FACT

11. Farrow teaches a server manager 201 includes database 204 that contains IP addresses and domain names. This database 204 is relational and store changes in the configuration of a network. Farrow, col. 3, l. 45-col. 4, l. 17; Fig. 2.

ANALYSIS

Based on the record before us, we find no error in the Examiner's rejection of claim 25. Shapira's server database stores information related to a reply in specific format, including a visitor address and a referring URL. *See* FF 4. Thus, Shapira relates this information to each other so as to be associated with a particular request or reply. On this basis alone and using common sense, an ordinarily skilled artisan would have recognized that a relational database would organize and store each entry in Shapira's database (FF 2) in the Figure 2 format (FF 4). *See Leapfrog Enter., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007). Moreover, Farrow teaches servers having relational databases that store IP addresses and domain names are known in the art. *See* FF 11. Shapira also teaches storing IP addresses (e.g., visitor addresses) and domains (referring URLs) for hits. *See* FF 3-5. We therefore find that Farrow suggests that such information would benefit from a relational database.

Lastly, Shapira teaches a scenario where the time is updated in the database (e.g., at step 530). *See* FF 6. Farrow teaches that relational databases are useful in storing similar changes. *See* FF 11. Thus, combining Farrow with Shapira would have improved Shapira by allowing for changes (e.g., time of a hit) to be stored in a relational database.

For the foregoing reasons, we will therefore sustain the rejection of claim 25.

CONCLUSION

Under § 103, the Examiner did not err in rejecting claims 20, 23-30, and 32-37, but erred in rejecting claims 1-19.

ORDER

The Examiner's decision rejecting claims 1-19, 23-30, and 32-37 is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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